

AMENDED IN ASSEMBLY APRIL 19, 2006

AMENDED IN ASSEMBLY MARCH 30, 2006

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 1871

Introduced by Assembly Members Benoit and Montanez
(Principal coauthor: Assembly Member Garcia)
(Principal coauthor: Senator Hollingsworth)

January 18, 2006

An act to add Section 53121 to the Government Code, and to amend Section 2891 of the Public Utilities Code, relating to public safety.

LEGISLATIVE COUNSEL'S DIGEST

AB 1871, as amended, Benoit. Public safety: law enforcement communications.

Existing law establishes various programs relating to law enforcement. Existing law requires every public agency to establish and have in operation a telephone system that automatically connects a person dialing the digits "911" to an established public safety answering point, as specified. Existing law provides that no telephone corporation shall make subscriber information available to others, except as specified.

This bill would require telecommunications service providers to provide public safety agencies with customer information under exigent circumstances, as specified. This bill would require telecommunications service providers to maintain all requests from public safety agencies for customer information for at least ~~three~~ 3 years and provide that after a release of customer information to a

public safety agency a telecommunications provider shall be entitled to obtain from the agency all legal documents, as specified, that formed the basis for the agency's request.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 53121 is added to the Government
2 Code, to read:

3 53121. (a) Notwithstanding any other provision of law, each
4 request by a public safety agency to a telecommunication service
5 provider for customer information that is made under exigent
6 circumstances, shall include, at minimum, all of the following
7 information:

8 (1) The name, title, and badge number of the public safety
9 officer.

10 (2) The office location and telephone number for the officer.

11 (3) The name and telephone number of the officer's
12 supervisor.

13 (4) The assertion by the officer that an exigent circumstance
14 exists.

15 (5) The customer's telephone number or other information that
16 allows the service provider to determine that the individual about
17 whom the request is made is a customer.

18 (b) If all of the information listed in subdivision (a) is
19 provided by the law enforcement agency to the
20 telecommunications service provider, the telecommunications
21 provider shall provide the public safety agency with the
22 requested customer information. No telecommunications service
23 provider, or official or employee thereof, shall be subject to
24 liability for providing the requested information in reasonable
25 reliance on the request and information provided pursuant to
26 subdivision (a).

27 (c) After the release of the requested information by the
28 telecommunications service provider to a public safety agency,
29 the telecommunications service provider shall be entitled to
30 obtain from the public service agency all legal documents that
31 formed the basis for the agency's request, including any
32 customer consent obtained by the agency, unless those

1 documents are prohibited from being provided by other
2 provisions of law or by court order.

3 (d) All telecommunications service providers shall maintain
4 for a period of no less than three years all requests from public
5 safety agencies for customer information that are made under
6 exigent circumstances.

7 (e) For purposes of this section, exigent circumstance means a
8 reasonable belief by the public safety officer that a situation
9 exists that involves immediate danger of death or serious bodily
10 injury to any person.

11 (f) For purposes of this section, telecommunications service
12 provider has the same meaning as the term “~~telecommunications~~
13 ~~carrier,” as defined in paragraph (44) of Section 153 of Title 47~~
14 ~~of the United States Code: telephone corporation,” as defined in~~
15 *Section 234 of the Public Utilities Code.*

16 SEC. 2. Section 2891 of the Public Utilities Code is amended
17 to read:

18 2891. (a) No telephone or telegraph corporation shall make
19 available to any other person or corporation, without first
20 obtaining the residential subscriber’s consent, in writing, any of
21 the following information:

22 (1) The subscriber’s personal calling patterns, including any
23 listing of the telephone or other access numbers called by the
24 subscriber, but excluding the identification to the person called of
25 the person calling and the telephone number from which the call
26 was placed, subject to the restrictions in Section 2893, and also
27 excluding billing information concerning the person calling
28 which federal law or regulation requires a telephone corporation
29 to provide to the person called.

30 (2) The residential subscriber’s credit or other personal
31 financial information, except when the corporation is ordered by
32 the commission to provide this information to any electrical, gas,
33 heat, telephone, telegraph, or water corporation, or centralized
34 credit check system, for the purpose of determining the
35 creditworthiness of new utility subscribers.

36 (3) The services which the residential subscriber purchases
37 from the corporation or from independent suppliers of
38 information services who use the corporation’s telephone or
39 telegraph line to provide service to the residential subscriber.

1 (4) Demographic information about individual residential
2 subscribers, or aggregate information from which individual
3 identities and characteristics have not been removed.

4 (b) Any residential subscriber who gives his or her written
5 consent for the release of one or more of the categories of
6 personal information specified in subdivision (a) shall be
7 informed by the telephone or telegraph corporation regarding the
8 identity of each person or corporation to whom the information
9 has been released, upon written request. The corporation shall
10 notify every residential subscriber of the provisions of this
11 subdivision whenever consent is requested pursuant to this
12 subdivision.

13 (c) Any residential subscriber who has, pursuant to
14 subdivision (b), given written consent for the release of one or
15 more of the categories of personal information specified in
16 subdivision (a) may rescind this consent upon submission of a
17 written notice to the telephone or telegraph corporation. The
18 corporation shall cease to make available any personal
19 information about the subscriber, within 30 days following
20 receipt of notice given pursuant to this subdivision.

21 (d) This section does not apply to any of the following:

22 (1) Information provided by residential subscribers for
23 inclusion in the corporation's directory of subscribers.

24 (2) Information customarily provided by the corporation
25 through directory assistance services.

26 (3) Postal ZIP Code information.

27 (4) Information provided under supervision of the commission
28 to a collection agency by the telephone corporation exclusively
29 for the collection of unpaid debts.

30 (5) Information provided to an emergency service agency
31 responding to a 911 telephone call or any other call
32 communicating an imminent threat to life or property.

33 (6) Information provided to a law enforcement agency in
34 response to lawful process.

35 (7) Information which is required by the commission pursuant
36 to its jurisdiction and control over telephone and telegraph
37 corporations.

38 (8) Information transmitted between telephone or telegraph
39 corporations pursuant to the furnishing of telephone service
40 between or within service areas.

1 (9) Information required to be provided by the corporation
2 pursuant to rules and orders of the commission or the Federal
3 Communications Commission regarding the provision over
4 telephone lines by parties other than the telephone and telegraph
5 corporations of telephone or information services.

6 (10) The name and address of the lifeline customers of a
7 telephone corporation provided by that telephone corporation to
8 a public utility for the sole purpose of low-income ratepayer
9 assistance outreach efforts. The telephone corporation receiving
10 the information request pursuant to this paragraph may charge
11 the requesting utility for the cost of the search and release of the
12 requested information. The commission, in its annual
13 low-income ratepayer assistance report, shall assess whether this
14 information has been helpful in the low-income ratepayer
15 assistance outreach efforts.

16 (11) Information provided in response to a request pursuant to
17 Section 53121 of the Government Code or subdivision (a) of
18 Section 530.8 of the Penal Code.

19 (e) Every violation is a grounds for a civil suit by the
20 aggrieved residential subscriber against the telephone or
21 telegraph corporation and its employees responsible for the
22 violation.

23 (f) For purposes of this section, “access number” means a
24 telex, teletex, facsimile, computer modem, or any other code
25 which is used by a residential subscriber of a telephone or
26 telegraph corporation to direct a communication to another
27 subscriber of the same or another telephone or telegraph
28 corporation.